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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,081	02/27/2004	Kenshi Aihara	AIHARA1	4296
1444	7590	10/04/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			PRESTON, ERIK D	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/787,081

Applicant(s)

AIHARA, KENSHI

Examiner

Erik D. Preston

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/27/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a vibrating motor, classified in class 310, subclass 15.
- II. Claim 9, drawn to a method for manufacturing a vibrating motor, classified in class 29, subclass 596.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the vibrator of Group I can be made one at a time rather than making a plurality of vibrators at once such as described in the method disclosed by Group II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Sheridan Neimark on 9/26/2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claim 9 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mizutani (US 5602432).

With respect to claim 1, Mizutani teaches a vibrator comprising: A coreless coil (Fig. 8, #2); a driver including a magnet (Fig. 8, #3) inserted in said coreless coil, a yoke (Fig. 8, #30a) sandwiching said coreless coil and opposing said magnet and a top plate (Fig. 9, #46b); and suspensions (Fig. 8, #4a & 4b) for resiliently carrying said driver, an alternate current (Col. 12, Lines 6-10) being applied to said coreless coil to generate vibrations by reciprocation of said driver in an axial direction of said coreless coil.

With respect to claim 2, Mizutani teaches the vibrator of claim 1, wherein said driver includes a weight (Fig. 8, #30a [on the left side of the Figure]) attached to said yoke.

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With respect to claim 3, Mizutani teaches the vibrator of claim 1, wherein said suspensions include a pair of suspension members comprising plate springs, in which one end of each suspension member is fixed (to the base: Fig. 8, #1) and another end of the suspension member is opened, said driver being pinched by the other ends of the pair of suspension members (as seen in Fig. 8).

With respect to claim 4, Mizutani teaches the vibrator of claim 3, wherein the pair of suspension members is disposed axisymmetrically and the driver is reciprocated in the axial direction.

With respect to claim 5, Mizutani teaches the vibrator of claim 4, wherein the pair of suspension members are disposed to pinch said driver in the axial direction in which said driver is reciprocated.

With respect to claim 6, Mizutani teaches the vibrator of claim 1, wherein said coreless coil, driver and suspension are contained in a case (Abstract).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (US 5602432).

With respect to claim 7, Mizutani teaches the vibrator of claim 6, wherein said case includes a frame (as seen in Fig. 8) having an opening for surrounding the driver

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(the opening) surrounds the driver, a base (Fig. 8, #1) for fixing the coreless coil and closing one side of the opening of the frame, but it does not teach a protector for closing another side of the frame. However, pagers and cell phones with enclosed casings were well known in the art at the time. It would have been obvious to one skilled in the art to include the vibrator of Mizutani in an enclosed pager casing because enclosed casings are used to protect the internal components of a pager.

With respect to claim 8, Mizutani teaches the vibrator of claim 7, wherein said case has a spacer (Fig. 8, #10), said suspension being pinched between the spacer and the frame.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2128555, US 2561355, US 3830099, US 5062140, US 5184037, US 5246353, US 6265796, US 6268671, US 6873067 & US 2005/0180592.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erik D. Preston whose telephone number is 571-272-8393. The examiner can normally be reached on Monday through Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



09/27/2005



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